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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91220182
Party	Defendant Betasavers LLC
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Attachments	ANSWER TO NOTICE OF OPPOSITION_BETASAVERS LLC BEATS LLC.pdf(167781 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD


BEATS ELECTRONICS, LLC :


 Opposer, : Opposition No. 91220182
Vs. :

BETASAVERS LLC, : Application No. 86255084
 Applicant :

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ANSWER TO NOTICE OF OPPOSITION

Applicant, Betasavers LLC ("Applicant"), an Arizona limited liability company, organized under the laws of Arizona with a place of business at 60 E. Rio Salado Pkwy, Suite 900, Arizona 85281, believes that the registration mark,  in international Class 35, as shown in Application Serial No. 86255084 filed will "NOT" damage any of the BEATS ELECTRONICS, LLC logo as opposed.

BETASAVERS LLC hereby replies to the numbered grounds for opposition set forth in Opposers' Notice of Opposition, that every allegation asserted to oppose BETASAVERS LLC logo mark  by BEATS ELECTRONICS, LLC is denied due to the followings:

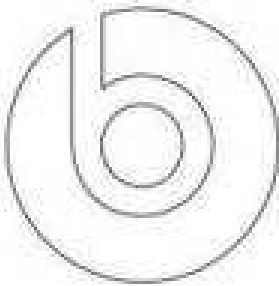
1. BETASAVERS LLC, a reputable company with its bona fide intention, under any circumstances showing the good faith filed an application to use a trademark in commerce to fulfill its goal by not violating **§ 1 (15 U.S.C. § 1051)b(1)**.

Applicant admits that it seeks to register a mark as fully displayed in U.S. Serial No 86255084 used in connection with On-line retail store services featuring clothing and accessories, household items, personal care products, consumer electronics. Applicant makes no answer to the allegations in paragraph 1 to the extent those allegations state legal conclusions rather than facts. Further, Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 and therefore denies those allegations.

2. Applicant makes no answer to the allegations in paragraph 2 as those allegations are not facts to prove that logos look the same or not. Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 and therefore denies those allegations.

3. Applicant makes no answer to the allegations in paragraph 3 as those allegations are not facts to prove that logos look the same or not. Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3 and therefore denies those allegations.

BEATS ELECTRONICS LLC mark and BETASAVERS LLC mark are never looked same. See Image below and differences could easily be spotted with less supervision.



BEATS ELECTRONICS LLC mark



BETASAVERS LLC mark



It's easily obvious that BETASAVERS LLC stylized mark **consists of a human left hand, finger pointing gesture (Humans forming letters/punctuation),** which cannot be found on BEATS ELECTRONICS LLC mark. This alone makes a huge difference between the two marks. And no fans or Customers will assume both are same in any ways. They look TOTALLY different. Allegation is therefore denied.

4. Applicant makes no answer to the allegations in paragraph 4 as those allegations are not facts to prove that logos look the same or not. Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 and therefore denies those allegations.

5. Applicant makes no answer to the allegations in paragraph 5 as those allegations are not facts to prove that logos look the same or not. Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 and therefore denies those allegations.

6. Applicant makes no answer to the allegations in paragraph 6 as those allegations are not facts to prove that logos look the same or not. Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6 and therefore denies those allegations.

7. Applicant makes no answer to the allegations in paragraph 7 as those allegations are not facts to prove that logos look the same or not. Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 and therefore denies those allegations.

8. Applicant denies that Opposer will be damaged or harmed by the registration of U.S. Serial No. 86255084 for the mark BETASAVERS LLC or that Opposer is entitled to any relief requested in the Notice of Opposition. It is good to see that Opposer knows that Applicant is an Arizona limited liability company with a principle place of business of 60 E. Rio Salado Parkway, Tempe, Arizona 85281, yet any allegation asserting to oppose BETASAVERS LLC mark should therefore be denied.

9. Applicant denies that Opposer will be damaged or harmed by the registration of U.S. Serial No. 86255084 for the mark BETASAVERS LLC or that Opposer is entitled to any relief requested in the Notice of Opposition. It is good to see that Opposer knows that Applicant filed the application to register **b** in International Class 35 for "On-line retail store services featuring clothing and accessories, household items, personal care products, consumer electronics" ("Applicant's Mark") with intent to use in U.S. Commerce, therefore any allegation asserting to oppose BETASAVERS LLC mark should therefore be denied as BEATS ELECTRONICS LLC mark and BETASAVERS LLC mark are never looked same. See Image below and differences could easily be spotted with less supervision.




BEATS ELECTRONICS LLC mark



BETASAVERS LLC mark



It's easily obvious that BETASAVERS LLC stylized mark  **consists of a human left hand, finger pointing gesture (Humans forming letters/punctuation),** which cannot be found on BEATS ELECTRONICS LLC mark. This alone makes a huge difference between the two marks. And no fans or Customers will assume both are same in any ways. They look TOTALLY different. Allegation is therefore denied.

10. Applicant denies that Opposer will be damaged or harmed by the registration of U.S. Serial No. 86255084 for the mark BETASAVERS LLC or that Opposer is entitled to any relief requested in the Notice of Opposition. Applicant makes no answer to the allegations in paragraph 10 as those allegations are not facts to prove that logos look the same or not. Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 and therefore denies those allegations.

11. Applicant denies that Opposer will be damaged or harmed by the registration of U.S. Serial No. 86255084 for the mark BETASAVERS LLC or that Opposer is entitled to any relief requested in the Notice of Opposition. Applicant makes no answer to the allegations in paragraph 11 as those allegations are not facts to prove that logos look the same or not. Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11 and therefore denies those allegations.

12. Applicant denies that Opposer will be damaged or harmed by the registration of U.S. Serial No. 86255084 for the mark BETASAVERS LLC or that Opposer is entitled to any relief requested in the Notice of Opposition. Applicant makes no answer to the allegations in paragraph 12 as those allegations are not facts to prove that logos look the same or not. Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12 and therefore denies those allegations.

13. BETASAVERS LLC mark logo is never similar to the OPPOSER mark. Therefore it will not cause any confusion or mistake to various customers or fans. Customers will not mistaken our mark logo since Our stylized mark **consists of a human left hand, finger pointing gesture (Humans forming letters/punctuation), which cannot be found on the OPPOSER mark logo.** Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 and therefore denies those allegations.

14. BETASAVERS LLC mark logo is never similar to the OPPOSER mark. No fans or customers will ever take it same as Our stylized mark **consists of a human left hand, finger pointing gesture (Humans forming letters/punctuation), which cannot be found on the OPPOSER mark logo.** Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 14 and therefore denies those allegations.

15. BETASAVERS LLC mark logo is never similar to the OPPOSER mark. Therefore it is not comprised entirely of a rounded like that of OPPOSER or similar in sight, sound. Our stylized mark **consists of a human left hand, finger pointing gesture (Humans forming letters/punctuation), which cannot be found on the OPPOSER mark logo.** Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 15 and therefore denies those allegations.

16 Applicant denies that Opposer will be damaged or harmed by the registration of U.S. Serial No. 86255084 for the mark BETASAVERS LLC or that Opposer is entitled to any relief requested in the Notice of Opposition.

BETASAVERS LLC mark logo is never similar to the OPPOSER mark. Therefore it will not cause any confusion or mistake to various customers or fans. Our stylized mark **consists of a human left hand, finger pointing gesture (Humans forming letters/punctuation), which cannot be found on the OPPOSER mark logo.** Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 16 and therefore denies those allegations.

17 Applicant denies that Opposer will be damaged or harmed by the registration of U.S. Serial No. 86255084 for the mark BETASAVERS LLC or that Opposer is entitled to any relief requested in the Notice of Opposition.

BETASAVERS LLC mark logo is never similar to the OPPOSER mark. Therefore it will not cause any confusion or mistake to various customers or fans. Our stylized mark **consists of a human left hand, finger pointing gesture (Humans forming letters/punctuation), which cannot be found on the OPPOSER mark logo.** Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 17 and therefore denies those allegations.

18 BETASAVERS LLC, a reputable company with its bona fide intention, under any circumstances showing the good faith of to use a trademark in commerce fulfilled his goal by not violating **§ 1 (15 U.S.C. § 1051)b(1)**.

BETASAVERS LLC mark logo is never similar to the OPPOSER mark. Therefore it will not cause any dilution to OPPOSER mark logo. BETASAVERS LLC disagree with the OPPOSER statement stating that *"Should the quality of Applicant's goods or services be lacking"...* Our Service cannot be lacking as we have "QUALITY" as our watch-word especially in our business. We have always been rated 5 stars with our fans and customers. We used same Office Building (Class A) with notable companies like Microsoft company, LIFELOCK, KPMG etc. Our stylized mark **consists of a human left hand, finger pointing gesture (Humans forming letters/punctuation), which cannot be found on the OPPOSER mark logo.**

Applicant denies that Opposer will be damaged or harmed by the registration of U.S. Serial No. 86255084 for the mark BETASAVERS LLC or that Opposer is entitled to any relief requested in the Notice of Opposition. Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 18 and therefore denies those allegations.

19. Applicant denies that Opposer will be damaged by the registration of U.S. Serial No. 86255084 for the mark BETASAVERS LLC or that Opposer is entitled to any relief requested in the Notice of Opposition.

BETASAVERS LLC mark logo will not and cannot damage the OPPOSER reputation as both marks does not look same. The mark logo is used for SERVICE purpose only on our website display and advertisement placement. Applicant therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 18 and therefore denies those allegations.

AFFIRMATIVE DEFENSES

Applicant asserts that the following affirmative defenses bar Opposers' requested relief in its Notice of Opposition.

FIRST AFFIRMATIVE DEFENSE

One of more of Opposers' claims fail to state a claim upon which relief may be granted. Applicant is filing a Motion to Dismiss concurrently with this Answer.

SECOND AFFIRMATIVE DEFENSE

One or more of Opposers' claims are barred by the equitable defenses of laches, acquiescence, waiver, or estoppel.

THIRD AFFIRMATIVE DEFENSE

BETASAVERS LLC mark logo is never similar to the OPPOSER mark. Therefore it will not cause any confusion or mistake to various customers or fans. Our stylized mark **consists of a human left hand, finger pointing gesture (Humans forming letters/punctuation), which cannot be found on the OPPOSER mark logo.**

FOURTH AFFIRMATIVE DEFENSE

Applicant hereby gives notice that it may rely on any other defenses that may become available or appear proper during discovery, and thereby reserves its right to amend this Answer to assert any such defenses.

WHEREFORE, BETASAVERS LLC, Applicant requests that the Trademark Trial and Appeal Board dismiss the Notice of Opposition and grant all other appropriate relief to Applicant as it deems just.

Thank you. God Bless USPTO.. God Bless America.

Dated: June 05, 2015.

Humbly submitted,

/Adegbayi Adefalujo/

ADEGBAYI ADEFALUJO

PRESIDENT/CEO

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing ANSWER TO NOTICE OF OPPOSITION has been served on MICHAEL G. KELBER & KATHERINE DENNIS NYE, Counsels for Opposer via First Class Mail at the address below:

Michael G. Kelber & Katherine Dennis Nye

NEAL ✂ GERBER ✂ EISENBERG

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in accordance with Trademark Rule 2.101 and 2.119 on June 5th 2015.

/Adegbayi Adefalujo/

ADEGBAYI ADEFALUJO